

No. 05-4004

FILED

JUN 01 2006

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

LEONARD GREEN, Clerk

TECUMSEH G. HATFIELD,

Petitioner-Appellant,

v.

UNITED STATES OF AMERICA,

Respondent-Appellee.

ORDER ✓

06 JUN -2 AM 11:48

JAMES BOYD
CLERK

1:02 CR 45 (03)

Tecumseh G. Hatfield appeals a district court order denying his motion to vacate his sentence filed pursuant to 28 U.S.C. § 2255. Hatfield has filed an application for a certificate of appealability under Fed. R. App. P. 22(b) and a motion to proceed in forma pauperis on appeal.

In 2002, Hatfield pleaded guilty to bank robbery and aiding and abetting bank robbery in violation of 18 U.S.C. §§ 2113 and 2. The district court sentenced him to a total of 57 months of imprisonment. Hatfield did not appeal his conviction or sentence.

In 2004, Hatfield filed a § 2255 motion, essentially arguing that counsel rendered ineffective assistance because he did not object to the inclusion of two points in his criminal history score based on a conviction obtained in violation of his right to counsel. Upon review, the district court denied the motion as without merit.

Upon consideration, Hatfield is not entitled to a certificate of appealability. The district court's decision is not debatable amongst jurists of reason. *See Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003).

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Accordingly, the application for a certificate of appealability is denied and the motion to proceed in forma pauperis is denied as moot.

ENTERED BY ORDER OF THE COURT

Ronald Green
Clerk

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
JUL 10 2006
CLERK'S OFFICE